



State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF THE COMMISSIONER
25 Capitol Street – Room 120
Concord, New Hampshire 03301

9 Jm

LINDA M. HODGDON
Commissioner
(603) 271-3201

JOSEPH B. BOUCHARD
Assistant Commissioner
(603) 271-3204

October 30, 2013

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Administrative Services (the "Department"), pursuant to RSA 4:40, to grant a perpetual utility easement on State land to Northern New England Telephone Operations LLC (d/b/a Fairpoint Communications – NNE) ("FairPoint") for the installation, operation, maintenance, and replacement of telecommunications lines and supporting facilities and apparatus as needed to provide telecommunications utility service to the Tobey Building located at 45 South Fruit Street in Concord within the Governor Hugh J. Gallen State Office Park campus. Effective upon Governor and Executive Council approval and shall continue in perpetuity.

EXPLANATION

The ongoing Tobey Building Renovation Project requires new telecommunications utility lines and supporting infrastructure. The proposed utility easement would affect an existing State-owned underground conduit extending from existing utility "pole #12" (also apparently known as "FairPoint Communications pole number 213/13"), located along South Fruit Street in Concord near the Archives and Records Management Building, to the Tobey Building. The proposed easement grants FairPoint the perpetual right and easement to install, replace, maintain, and operate telecommunications lines within the State-owned conduit and to install, replace, maintain, and operate any supporting facilities and apparatus as may be needed within the Tobey Building.

The proposed utility easement shall be granted to FairPoint free of charge in exchange for making available to the State telecommunications utility service to the renovated Tobey Building. The effectiveness of the proposed easement shall commence upon its execution by the Commissioner of the Department of Administrative Services, following approval by the Governor and Executive Council, and shall continue in perpetuity. The proposed easement was approved by the Long Range Capital Planning and Utilization Committee on October 22, 2013.

Respectfully submitted,

Linda M. Hodgdon
Commissioner

LIST OF EXHIBITS

1. Proposed Easement Deed
2. Location Map
3. Aerial View (showing utility pole locations)
4. Electrical Site Plan – Tobey Building Renovations (showing approximate location of underground conduit to be subject to proposed easement)
5. Long Range Capital Planning and Utilization Committee approval memorandum

**NORTHERN NEW ENGLAND TELEPHONE OPERATIONS
-EASEMENT-
13-160 FP Job# 270047**

Know All Men By These Presents that **THE STATE OF NEW HAMPSHIRE**, by and through its Department of Administrative Services pursuant to RSA 4:40, as authorized by the Governor and Executive Council on _____, 2013 (Meeting Agenda Item # _____), with a mailing address of Office of the Commissioner, 25 Capitol Street, Concord, New Hampshire 03301 (hereinafter "Grantor"), for good and valuable consideration paid, grants to **NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC (d/b/a FairPoint Communications-NNE)**, a limited liability company organized under the laws of Delaware having a place of business at 100 Gay Street, Manchester, New Hampshire 03103 (hereinafter "Grantee"), and its successors and assigns forever, with quitclaim covenants, the right to lay, construct, reconstruct, operate, maintain, replace and remove lines for the transmission of intelligence, communications, and information services, including the necessary fiber, cable, terminals, conduits, electronics, interfaces, equipment, marker, fixtures, and appurtenances, with the wires and cables therein, upon and under certain land of the Grantor located along South Fruit Street, in the City of Concord, County of Merrimack, and State of New Hampshire.

Said rights may be exercised within an area located within the following described limits (the "Easement Area"):

Beginning along the easterly line of the public way known as South Fruit Street at FairPoint Communications pole number 213/13 (also known as main line power utility pole #12); thence continuing underground within existing conduit owned by the Grantor to a handhole adjacent to the easterly line of a private way known as Tobey Road; thence continuing underground within existing conduit owned by the Grantor and entering a certain building of the Grantor located at 45 South Fruit Street known as the Tobey Building; thence continuing within existing conduit owned by the Grantor to and including a terminal to be installed by Grantee within the Tobey Building.

Meaning and intending to describe and convey a nonexclusive easement upon, across, over, and/or under (as the case may be) that portion of those premises known as the

Governor Hugh J. Gallen State Office Park (formerly known as the New Hampshire Hospital Campus) as was conveyed to the Grantor by Deed of Elisha Morrill dated January 22, 1841, recorded in the Merrimack County Registry of Deeds at Book 64, Page 374.

All equipment installed by Grantee within the Easement Area shall remain the property of the Grantee, its successors and assigns.

There is also hereby conveyed to the Grantee the right to enter abutting lands of the Grantor and said Tobey Building in the exercise of the rights herein granted and to gain access to the Easement Area; and the right to cut and/or trim any trees, bushes, underbrush, and/or growth as may be located within the Easement Area, including foliage thereon, as the Grantee may from time to time deem necessary for the safety of its personnel and contractors in exercising the rights granted herein. Any such entry and any such cutting or trimming shall occur only on such dates and at such times as have been approved in advance by the Grantor.

Grantor shall refrain from, and shall take reasonable steps to prevent others from, damaging or interfering with the operation and maintenance of Grantee's facilities without the prior written consent of Grantee.

Upon the request of the Grantor, Grantee agrees to relocate the Easement Area and all facilities therein to another portion of Grantor's land, provided that (i) the proposed new easement area is reasonably adequate for the Grantee's purposes and is mutually satisfactory to both parties; and (ii) Grantor shall pay all reasonable costs of such relocation and the cost to obtain all necessary permits and approvals therefore.

If at any time Grantee shall do or cause to be done any damage to property of the Grantor or otherwise as the result of Grantee's exercise of its rights as granted herein, then Grantee, at its sole cost and expense, shall restore said damaged property or area to the same condition that existed just prior to such damage. Grantee shall indemnify the Grantor and hold it harmless from any injury to persons or property which may at any time occur through any act, omission, or negligence of Grantee or its representatives, employees, agents, or contractors within the foregoing premises of the Grantor; provided, however, that the foregoing indemnity does not apply to damage or expense arising from the loss of telecommunications service, which liability is governed by tariff.

The Grantor, for itself, its successors and assigns, hereby covenants that it will not erect or permit to be erected any structure upon the foregoing premises which, in the judgment of the Grantee, its successors and assigns, might interfere with the proper maintenance of said facilities or the services to be provided by Grantee in connection therewith.

Executed this _____ day of _____ 2013.

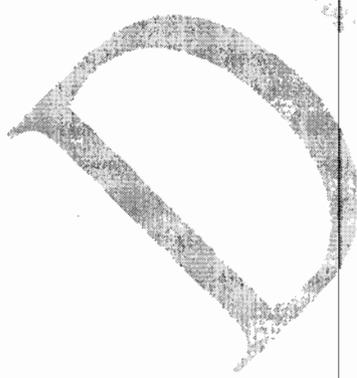
GRANTOR:
STATE OF NEW HAMPSHIRE
By and through its
DEPARTMENT OF ADMINISTRATIVE
SERVICES

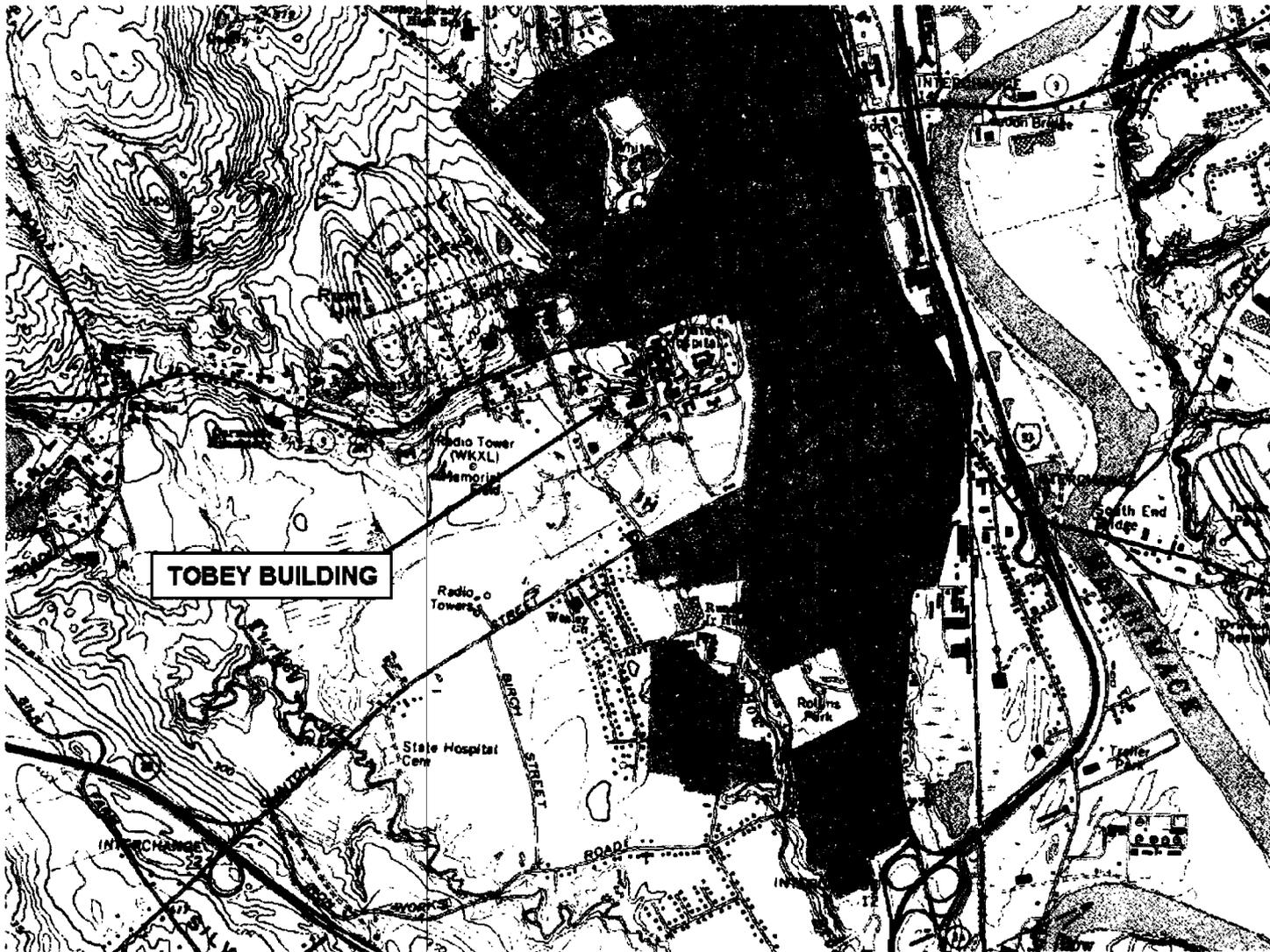
By: _____
Linda M. Hodgdon, Commissioner
Duly Authorized

STATE OF NEW HAMPSHIRE
COUNTY OF _____

On this _____ day of _____ 2013, personally appeared the above-named Linda M. Hodgdon, known to me (satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument, and acknowledged that she is the duly authorized Commissioner of the New Hampshire Department of Administrative Services and that she executed the foregoing instrument for the purposes therein contained.

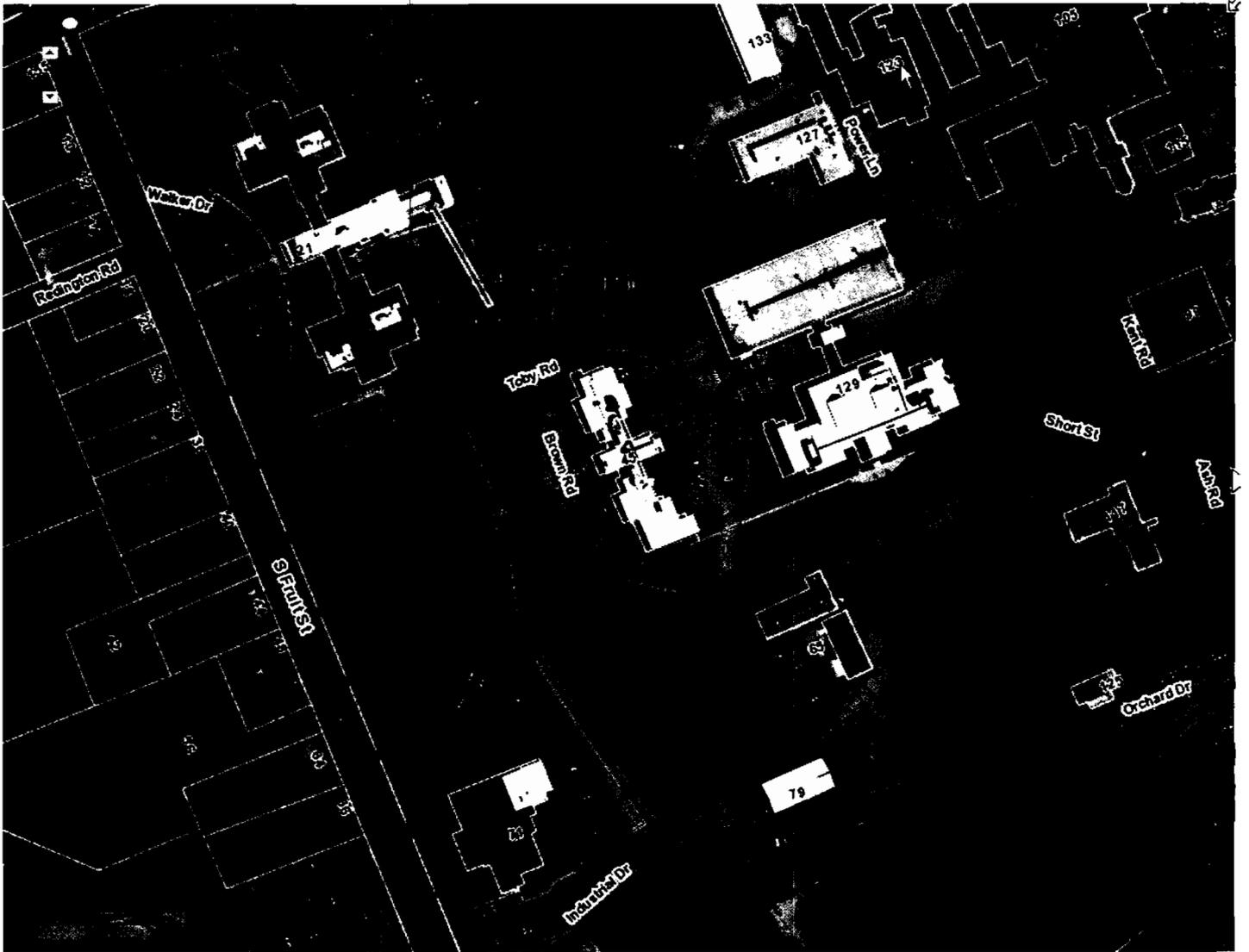
Notary Public / Justice of the Peace
My Commission Expires: _____
(SEAL)





45 South Fruit Street, Concord, NH
Tobey Building, Governor Hugh J. Gallen State Office Park

Concord USGS Quad



45 South Fruit Street, Concord, NH
Tobey Building, Governor Hugh J. Gallen State Office Park
(at center above)

Aerial View
(pre-renovation)

NOTE: Conduit begins along South Fruit Street at utility pole #12, shown and labeled above, and runs underground to the Tobey Building approximately as shown on the following page. The configuration of the roads, driveways, parking areas, lawn areas, and fencing shown above between the Tobey Building and South Fruit Street has changed since the above aerial photography was generated as a result of the Tobey Building Renovation Project.



OCT 23 '13 PM 2:53 DAS

LRCP 13-047

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State of New Hampshire

OFFICE OF LEGISLATIVE BUDGET ASSISTANT
State House, Room 102
Concord, New Hampshire 03301

RICHARD J. MAHONEY, CPA
Director, Audit Division
(603) 271-2785

October 22, 2013

Linda M. Hodgdon, Commissioner
Department of Administrative Services
25 Capitol Street, Room 120
Concord, New Hampshire 03301

Dear Commissioner Hodgdon,

The Long Range Capital Planning and Utilization Committee, pursuant to the provisions of RSA 4:40, on October 22, 2013, approved the request of the Department of Administrative Services, to grant a perpetual utility easement on State land to Northern New England Telephone Operations LLC (d/b/a FairPoint Communications – NNE) ("FairPoint") for the installation, operation, maintenance, and replacement of telecommunications lines and supporting facilities and apparatus as needed to provide telecommunications utility service to the Tobey Building located at 45 South Fruit Street in Concord within the Governor Hugh J. Gallen State Office Park campus, subject to the conditions as specified in the request dated October 7, 2013.

Sincerely,

Jeffrey A. Pattison
Legislative Budget Assistant

JAP/pe
Attachment

Cc: Michael Connor, Deputy Commissioner ✓